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TERM ANALYSIS

Docket Number: DEP5043USPCT

## APPLICATION INFORMATION

Docket Number:	DEP5043USPCT	User Name:	Washington, Crystal
Application Number:	10/587,733	Firm/Company Name:	Johnson & Johnson
Filing Date:	02/03/2004	User Comments:	
Title/Inventor(s):	INSTRUMENT FOR POSITIONING A CUP COMPONENT OF AN ORTHOPAEDIC JOINT PROSTHESES; Gary Fenton , Huddersfield, (GB)	Calculation Generated:	11/21/2011 04:46:43 PM ET

## AIPA TERM CALCULATION SUMMARY

Earliest Referenced Application under 35 USC § 120, 121, or 365 (c):	02 / 03 / 2004
International Filing Date:	02 / 03 / 2004
Net Adjustment Credits:	862 Days
Net Adjustment Debits:	458 Days
Patent Term Adjustment:	404 Days
AIPA Patent Term End Date:	03 / 13 / 2025 <sup>(1)</sup>
<sup>(1)</sup> Assumes payment of all maintenance fees, no intervening acts, and no 35 USC 156 regulatory extensions. Terminal disclaimer(s) filed in this case, if any, may result in an earlier term end date. Without adjustment, the term would end on 02/03/2024.	

COMPARISON TO USPTO PAIR PTA TAB <sup>(2)</sup> (Based on PAIR Data from 11/18/2011)			
	PAIR PTA Tab	Your Calculation	Comparison
Credit Days (USPTO Delay):	862	862	
Debit Days (Applicant Delay):	63	458	
Total Patent Term Adjustment Days:	799	404	
<sup>(2)</sup> Comparison is shown for Non-Overlapping USPTO Delays, Applicant Delays, and Total PTA Adjustments field(s) from USPTO PAIR Patent Term Adjustments (PTA) tab on 11/18/2011. See the full PAIR PTA tab, file wrapper (e.g., Notice of Allowance, PTA petitions), and issued patent for complete information on USPTO-calculated PTA.			

RULE CALCULATION SUMMARY <sup>(3)</sup>						
Event	Rule Invoked	Related Event	Exclusion Days <sup>(4)</sup>	Debit Days <sup>(5)</sup>	Credit Days <sup>(6)</sup>	
A	<b><u>3-Year PTO Issue of Patent</u></b>					
	08/03/2005 National Stage Commenced under 35 USC 371(b) or (f)	Issue Date:  09/20/2011 Issue Date			581	
	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under <u>35 USC 371(b) or (f)</u> in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under <u>35 USC 371(b) or (f)</u> in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusionary periods. <u>35 USC 154(b)(1)</u>					

		(B): <u>37 CFR 1.702(b), 1.703(b).</u>			
		You have elected to analyze this rule in accordance with Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).			
<b>B</b>	08/04/2005 Abandonment Effective Date	<p><b><u>Abandonment/Late Payment of Issue Fee</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of: (i) the date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (ii) the date that is 4 months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed. <u>37 CFR 1.704(c) (3).</u></p>	<p><i>Grantable Petition:</i></p> <p>07/27/2006 Petition (Unknown Purpose)</p> <hr/> <p><i>Decision Reviving/Accepting Payment:</i></p> <p>08/21/2006 Decision on Petition to Revive -- Granted</p>	<b>383</b>	
<b>C</b>	12/01/2006 Application Fulfilled Requirements of 35 USC 371	<p><b><u>14-Month PTO First Action</u></b></p> <p>PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of <u>35 USC 371</u> in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of <u>35 USC 371</u> and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. <u>35 USC 154(b)(1)(A)(i); 37 CFR 1.702(a)(1), 1.703(a) (1).</u></p>	<p><i>First PTO Action:</i></p> <p>04/10/2009 Non-final Action</p>	<b>434</b>	
		<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO</p>			

<p><b>D</b></p> <p>04/10/2009 Non-final Action</p>	<p>notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. <u>35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</u></p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. <u>35 USC 154(b)(3)(C); 37 CFR 1.705 (c).</u></p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p> <p>You have elected to analyze this rule in accordance with <i>ArQule v. Kappos</i>, ___ F.Supp.2d ___ (D.D.C. 2011). Since the 3-Month period did not end on a Saturday, Sunday, or known Federal holiday within the District of Columbia, however, the 3-month deadline is not affected. See 35 USC 21(b).</p>	<p><i>Applicant Response:</i></p> <p>08/10/2009 Reply after Non-final Action under 37 CFR 1.111</p>		<p><b>31</b></p>
<p><b>E</b></p> <p>08/10/2009 Reply after Non-final Action under 37 CFR 1.111</p>	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113 (c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. <u>35 USC 154(b)(1) (A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</u></p>	<p><i>PTO Response:</i></p> <p>12/08/2009 Final Rejection</p>		<p><b>0</b></p>
	<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p>			

F	12/08/2009 Final Rejection	<p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. <u>35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</u></p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. <u>35 USC 154(b)(3)(C); 37 CFR 1.705 (c).</u></p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p> <p>You have elected to analyze this rule in accordance with <i>ArQule v. Kappos</i>, __ F.Supp.2d __ (D.D.C. 2011). Since the 3-Month period did not end on a Saturday, Sunday, or known Federal holiday within the District of Columbia, however, the 3-month deadline is not affected. See 35 USC 21(b).</p>	Applicant Response:  03/08/2010 Request for Continued Examination under 35 U.S.C. 132(b)		0
G	03/08/2010 Request for Continued Examination under 35 U.S.C. 132(b)	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113 (c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. <u>35 USC 154(b)(1) (A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</u></p>	PTO Response:  03/11/2010 Other		0

<p>03/08/2010 Request for Continued Examination under 35 U.S.C. 132(b)</p>	<p><b><u>Exclusion for Continued Examination</u></b></p> <p>3-Year PTO Issue Requirement does not include the period consumed by continued examination of the application under 35 USC 132(b), beginning on the date on which a request for continued examination of the application under 35 USC 132(b) was filed and ending on the date the patent was issued. <u>35 USC 154(b)(1)(B)(i); 37 CFR 1.702(b)(1), 1.703(b)(1).</u></p>	<p><i>Issue Date:</i></p> <p>09/20/2011 Issue Date</p>	<p>562</p>	
<p>03/08/2010 Amendment / Reply Submitted with RCE</p>	<p><b><u>Reply Having Omission</u></b></p> <p>Period of adjustment (credits) shall be reduced where applicant submits a reply having an omission (37 CFR 1.135(c)), for the period beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed. <u>37 CFR 1.704(c)(7).</u></p> <p>The USPTO interprets this rule as not limited to Office actions under 37 CFR 1.135(c), but it applies when the Office issues any action or notice indicating that a reply has an omission which must be corrected. See MPEP 2732 at 2700-20 (8th ed., rev. 2, May 2004).</p>	<p><i>Reply/Other Paper Correcting Omission:</i></p> <p>03/24/2010 Reply after Non-final Action under 37 CFR 1.111</p>	<p>16</p>	
<p>03/11/2010</p>	<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. <u>35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</u></p>	<p><i>Applicant Response:</i></p>		

J	Other	<p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. <u>35 USC 154(b)(3)(C)</u>; <u>37 CFR 1.705 (c)</u>.</p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p> <p>You have elected to analyze this rule in accordance with <i>ArQule v. Kappos</i>, __ F.Supp.2d __ (D.D.C. 2011). Since the 3-Month period did not end on a Saturday, Sunday, or known Federal holiday within the District of Columbia, however, the 3-month deadline is not affected. See 35 USC 21(b).</p>	<p>03/24/2010 Reply after Non-final Action under 37 CFR 1.111</p>		0
K	<p>03/24/2010 Reply after Non-final Action under 37 CFR 1.111</p>	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113 (c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. <u>35 USC 154(b)(1)(A)(ii)</u>; <u>37 CFR 1.702(a)(2)</u>, <u>1.703(a)(2)(3)</u>.</p>	<p><i>PTO Response:</i></p> <p>10/29/2010 Non-final Action</p>		97
		<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. <u>35 USC 154 (b)(2)(C)(ii)</u>; <u>37</u></p>			

L	<p>10/29/2010 Non-final Action</p>	<p><u>CFR 1.704(b).</u></p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. <u>35 USC 154(b)(3)(C); 37 CFR 1.705 (c).</u></p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p> <p>You have elected to analyze this rule in accordance with <i>ArQule v. Kappos</i>, ___ F.Supp.2d ___ (D.D.C. 2011). Per <i>ArQule</i>, since the 3-Month period ended on a Saturday, Sunday, or known Federal holiday within the District of Columbia, the effective 3-Month deadline is January 31, 2011. Note that January 29, 2011 is a Saturday; and January 30, 2011 is a Sunday. See 35 USC 21(b).</p>	<p><i>Applicant Response:</i></p> <p>02/28/2011 Reply after Non-final Action under 37 CFR 1.111</p>		<p>28</p>
M	<p>02/28/2011 Reply after Non-final Action under 37 CFR 1.111</p>	<p><b><u>4-Month PTO Response to Applicant Reply</u></b></p> <p>PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113 (c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. <u>35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(a)(2),(3).</u></p>	<p><i>PTO Response:</i></p> <p>05/13/2011 Notice of Allowance under 35 USC 151</p>		<p>0</p>
		<p><b><u>3-Month Applicant Response to Notice or Action</u></b></p> <p>Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on</p>			



N	05/13/2011 Notice of Allowance under 35 USC 151	<p>the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. <u>35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).</u></p> <p>Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. <u>35 USC 154(b)(3)(C); 37 CFR 1.705 (c).</u></p> <p>You have indicated that no 1.705(c) Showing of Due Care was made.</p> <p>You have elected to analyze this rule in accordance with <i>ArQule v. Kappos</i>, ____ F.Supp.2d ____ (D.D.C. 2011). Per <i>ArQule</i>, since the 3-Month period ended on a Saturday, Sunday, or known Federal holiday within the District of Columbia, the effective 3-Month deadline is August 15, 2011. Note that August 13, 2011 is a Saturday; and August 14, 2011 is a Sunday. See 35 USC 21(b).</p>	<p><i>Applicant Response:</i></p> <p>08/15/2011 Issue Fee Payment under 35 USC 151</p>	0		
O	08/15/2011 Issue Fee Payment under 35 USC 151	<p><b><u>4-Month PTO Issue of Patent</u></b></p> <p>PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credits) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. <u>35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).</u></p>	<p><i>Issue Date:</i></p> <p>09/20/2011 Issue Date</p>	0		
Total Exclusion, Debit, and Credit Days:				562	458	1112
Overlap Days <sup>(7)</sup> :				0	0	250
Net Exclusion, Debit, and Credit Days:				562	458	862
Patent Term Adjustment Days <sup>(8)</sup> :						404

<sup>(3)</sup>Calculations of Debit, Credit, and Exclusion Days are determined by the rule assignments, assignments of related events, and analysis options in the Apply Term Rules tab. The patent professional using this system is responsible for reviewing and updating the Apply Term Rules tab to ensure all data is complete, correct, and consistent with their judgment and interpretation of applicable legal authority.

<sup>(4)</sup>Exclusion Days are periods which are not included in determining the end of the 3-year period after the date on which the application was filed under 35 USC 111(a), or the national stage commenced under 35 USC 371(b) or (f) in an international application, used to determine credits under the 3-Year PTO Issue of Patent rule. See 35 USC 154(b)(1)(B)(i)-(iii); 37 CFR 1.702(b)(1)-(5), 1.703(b)(1)-(4).

<sup>(5)</sup>Debit Days are days where grounds for reduction of period of adjustment of patent term exist. See, e.g., 37 CFR 1.704. Debit Days are sometimes referred to as Applicant Delay.

<sup>(6)</sup>Credit Days are days where grounds for adjustment of patent term exist. See, e.g., 37 CFR 1.702, 1.703. Credit Days are sometimes referred to as USPTO Delay.

<sup>(7)</sup>To the extent credit periods overlap other credit periods, debit periods overlap other debit periods, or exclusion periods overlap other exclusion periods, overlaps are subtracted so that each calendar day generates at most one credit day, one debit day, and one exclusion day.

<sup>(8)</sup>Patent Term Adjustment Days equals Net Credit Days minus Net Debit Days, but is not less than zero.

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